1 2 3 4 5 6 7	KAREN P. HEWITT United States Attorney AARON B. CLARK Assistant U.S. Attorney California State Bar No. 239764 United States Attorney's Office 880 Front Street, Room 6293 San Diego, California 92101-8893 Telephone: (619) 557-6787/(619) 235-2757 (Fax) Email: aaron.clark@usdoj.gov  Attorneys for Plaintiff United States of America		
8	UNITED STATES DISTRICT COURT		
9	SOUTHERN DISTRICT OF CALIFORNIA		
10	UNITED STATES OF AMERICA, Criminal Case No. 08CR0091-WQH		
11	Plaintiff, ) DATE: March 17, 2008 ) TIME: 2:00 p.m.		
12	v. ) Before Honorable William Q. Hayes		
13 14 15 16 17	ALEJANDRO AMEZCUA-MANZO, and DELFINO BENITO-GUTIERREZ,  Defendant(s).  Defendant(		
18 19 20 21 22 23 24 25 26 27 28	COMES NOW the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Aaron B. Clark, Assistant U.S. Attorney, and hereby files its Motions in the above-referenced case. Said Motions are based upon the files and records of this case together with the attached statement of facts and memorandum of points and authorities.  //  //  //		

1	DATED: February 29, 2008.	
2		Respectfully submitted,
3		KAREN P. HEWITT
4		United States Attorney
5		s/ Aaron B. Clark AARON B. CLARK
6		Assistant United States Attorney
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6	Email: aaron.clark@usdoj.gov		
7	Attorneys for Plaintiff United States of America		
8	UNITED STATES DISTRICT COURT		
9	SOUTHERN DISTRICT OF CALIFORNIA		
10	UNITED STATES OF AMERICA,	) Criminal Case No. 08CR0298-WQH	
11		) DATE: March 17, 2008	
12	Plaintiff,	) TIME: 2:00 p.m. ) Before Honorable William Q. Hayes	
13	V.	) ) LINUTED CTATEC: CTATEMENT OF	
14	ALEJANDRO AMEZCUA-MANZO, and DELFINO BENITO-GUTIERREZ,	) UNITED STATES' STATEMENT OF ) FACTS AND MEMORANDUM OF	
15	Defendant(s).	) POINTS AND AUTHORITIES )	
16	I		
17	STATEMENT	OF THE CASE	
18	The Defendant, Delfino Benito-Guiterrez (hereinafter "Defendant" or "Benito") and		
19	Alejandro Amezcua-Manzo ("Amezcua") were	charged by a grand jury on February 6, 2008 with	
20	violating 8 U.S.C. §§ 1324(a)(1)(A)(ii) and (v)(	(II), transportation of illegal aliens and aiding and	
21	abetting. Both were arraigned on the Indictment on February 7, 2008, and entered pleas of not		
22	guilty.		
23		II	
24	STATEMENT OF FACTS		
25	On the morning of January 24, 2008, United States Border Patrol Agents ("BP") Hays and		
26	Gonzalez were observing traffic near the intersection of Highway 78 and State Roue 2 in Shelter		
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Valley, California. As they were parked they observed a white 1993 Buick Roadmaster traveling north on SR-2, and then turn east on Highway 78. Just as the vehicle turned east on Highway 78 it made a u-turn and returned to SR-2 traveling south. The maneuver appeared suspicious to the agents, since the location is the site of a sometimes operational Border Patrol checkpoint and it is common for smugglers to scout the area.

Approximately five minutes later, Amezcua drove a white Ford F-150 truck past the agents while traveling north on the SR-2, then turning east on Highway 78. After the truck passed, the Buick again came into agents view, now traveling north on SR-2, then turning east on Highway 78. Agents Hays and Gonzalez relayed this information to Agents Martinez and Ortega.

Agents Martinez and Ortega then pulled in behind the Ford truck and followed it east on Highway 78 until it turned north on SR-3 and parked at an empty campground within yards of the intersection. The agents then walked up to the truck and identified themselves as Border Patrol agents to Amezcua and Benito, and the five others lying down in the open bed of the truck. Upon questioning, Amezcua noted he was a legal permanent resident. Benito and the five other people in the bed of the truck admitted to being citizens and nationals of Mexico. They further stated individually that they had entered and were illegally present in the United States. Four of the five aliens in the bed of the truck appeared to be teenagers. Agents then placed Amezcua, Benito, and the five other aliens under arrest.

In a post-Miranda statement, Amezcua admitted he picked up and transported the aliens that had been waiting since the previous day. He stated he had received a call from Benito telling him that the aliens were freezing and needed a ride. Amezcua admitted that he knew some of the aliens were minors because Benito, while still in Mexicali, Mexico, had phoned Amezcua telling him that he was going to cross into the United States with several people, mostly minors.

Benito, in a post-Miranda interview admitted he is a Mexican citizen without documents to be in the United States legally. He also admitted calling Amezcua for a ride and directing him to the location where Amezcua picked him up, along with the five other aliens.

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The material witnesses all generally stated that they are Mexican citizens without documents to be in the United States legally. They each stated they had either made arrangements, or had others make arrangements for them, to be smuggled into the United States. They were to pay, or have others pay on their behalf, between an unknown amount to \$1500. They further admitted crossing into the United States on January 22, 2008. Two of the three material witnesses identified Amezcua out of a photo lineup as the driver of the vehicle.

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## UNITED STATES' MOTION FOR RECIPROCAL DISCOVERY

The United States hereby moves for reciprocal discovery from Defendants. To date Defendants have not provided any. The United States, pursuant to Rule 16 of the Federal Rules of Criminal Procedure, requests that Defendants permit the United States to inspect, copy, and photograph any and all books, papers, documents, photographs, tangible objects, or make copies of portions thereof, which are within the possession, custody or control of Defendants and which Defendants intend to introduce as evidence in their case-in-chief at trial.

The United States further requests that it be permitted to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, which are in the possession or control of Defendants, which Defendants intend to introduce as evidence-in-chief at the trial, or which were prepared by a witness whom Defendants intend to call as a witness. Because the United States will comply with Defendants' requests for delivery of reports of examinations, the United States is entitled to the items listed above under Rule 16(b)(1) of the Federal Rules of Criminal Procedure. The Government also requests a written summary of the names, anticipated testimony, and bases for opinions of experts the defendant intends to call at trial under Rules 702, 703, and 705 of the Federal Rules of Evidence.

1 The United States also requests that the Court make such order as it deems necessary under 2 Rules 16(d)(1) and (2) to ensure that the United States receives the discovery to which it is 3 entitled. 4 In addition, Rule 26.2 of the Federal Rules of Criminal Procedure requires the production 5 of prior statements of all witnesses, except a statement made by defendants. This rule thus 6 provides for the reciprocal production of <u>Jencks</u> statements. The time frame established by the 7 rule requires the statement to be provided after the witness has testified. To expedite trial 8 proceedings, the United States hereby requests that Defendants be ordered to supply all prior 9 statements of defense witnesses by a reasonable date before trial to be set by the Court. Such an 10 order should include any form in which these statements are memorialized, including but not 11 limited to, tape recordings, handwritten or typed notes and/or reports. 12 IV13 **LEAVE TO FILE FURTHER MOTIONS** 14 Should new information or legal issues arise, the United States respectfully requests the 15 opportunity to file such further motions as may be appropriate. 16 17 **CONCLUSION** 18 For the foregoing reasons, the Government respectfully requests that the Court grant the 19 Government's motions. 20 21 DATED: February 29, 2008. 22 Respectfully submitted, 23 KAREN P. HEWITT United States Attorney 24 25 s/ Aaron B. Clark AARON B. CLARK Assistant United States Attorney 26 27 28 6

1	LINUTED OTTATE		
2	UNITED STATES DISTRICT COURT		
3	SOUTHERN DISTRICT OF CALIFORNIA		
4	UNITED STATES OF AMERICA,	Case No. 08CR0298-WQH	
5	Plaintiff	CERTIFICATE OF SERVICE	
6	v.		
7	ALEJANDRO AMEZCUA-MANZO, and DELFINO BENITO-GUTIERREZ,		
8	Defendant(s).		
9			
10	IT IS HEREBY CERTIFIED THAT:		
11	I, AARON B. CLARK, am a citizen o	f the United States and am at least eighteen years of	
12	age. My business address is 880 Front Street, Room 6293, San Diego, California 92101-8893.		
13	I am not a party to the above-entitled action. I have caused service of UNITED STATES' MOTIONS on the following parties by electronically filing the foregoing with the Clerk of the		
14	District Court using its ECF System, which electronically notifies them.		
15	1. Gregory Murphy, Federal Defenders of San Diego		
16	2. Marc X. Carlos		
17	I declare under penalty of perjury that the foregoing is true and correct.		
18	Executed on February 29, 2008.		
19		s/ Aaron B. Clark	
20		AARON B. CLARK	
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